

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KPN B.V.

Plaintiff,

- against-

CORCYRA D.O.O.,
KSD PACIFIC, LLC,
MOSHE HAR ADIR, and
YOSSI ATTIA

Defendants.

**DECLARATION OF JOSEPH G.
MCCARTY IN SUPPORT OF
MOTION TO DISMISS AND
MOTION TO QUASH SERVICE
FILED BY CORCYRA, D.O.O.**

Civil Action No. 08 CV 1549 (JGK)

I, JOSEPH G. McCARTY, being first duly sworn, declare and allege as follows:

1. I am an attorney duly authorized to practice law before the Courts of the State of California. I have a pro hac vice application pending before this Court. I have personal knowledge of the facts set forth herein and if called as a witness I could, and would, so competently testify hereto.
2. I requested from Plaintiff's counsel a true copy of the Declaration of Service upon Defendant Corcyra, d.o.o. In response I received a declaration, a true and accurate copy of which is attached hereto as Exhibit "1".
3. Not received from Plaintiff's counsel, but instead obtained from the Court's PACER website is an apparent second declaration of service, a true and accurate copy of which is attached as Exhibit "2".

I declare under penalty of perjury pursuant to the Laws of the United States of America, the State of California, and the State of New York that the preceding is true and

correct.

Executed in the City of Los Angeles, State of California on the 30th day of May,
2008.



Handwritten signature of Joseph G. McCarty, written in black ink over a horizontal line.

Joseph G. McCarty

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

KPN B.V.,	:	
	:	
Plaintiff,	:	08 CV 1549 (JGK)
	:	
-against-	:	ECF CASE
	:	
CORCYRA D.O.O., KSD PACIFIC LLC,	:	
MOSHE HAR ADIR, and YOSSI ATTIA,	:	
	:	<u>DECLARATION OF SERVICE</u>
	:	
Defendants,	:	

-----X

KURT R. VELLEK hereby declares under penalty of perjury that:

1. I am over 18 years of age, not a party to this action, and reside in Mahopac, New York. I am employed by the law firm of Allen & Overy LLP and I am a licensed New York City process server. My license number is 826793.
2. On Friday, February 15, 2008 at approximately 4:50 p.m., I personally served the summons and complaint upon defendant Corcyra d.o.o. ("Corcyra") by its attorney Elliot H. Lutzker, at his offices at Philips Nizer LLP, 666 Fifth Avenue, 28th Floor, New York, New York.
3. The receptionist initially informed Mr. Lutzker over the phone that I was serving legal papers in this action, but he refused to come to the reception area and directed the receptionist to refuse the papers as well. I informed her that the agreement specified that service needed to be made to Mr. Lutzker, and left the papers on the desk.
4. "Jane Doe", the receptionist on the 28th floor offices of Philips Nizer LLP, may be described as a white female in her early fifties with a medium build, with reddish brown hair, and wearing glasses.
5. Also, on repeated occasions on both February 19 and 20, 2008, I caused a copy of the summons and complaint to be delivered by facsimile transmission to Corcyra's overseas offices (fax number +385 52 590 731) pursuant to the agreement. The call failed to properly complete after each attempt.
6. In addition, on February 19, 2008, pursuant to the agreement I served an additional copy of the


summons and complaint upon Elliott Lutzker, Esq., c/o Philips Nizer LLP, 666 Fifth Avenue, New York, New York by US registered mail (receipt no. RA 696 877 633 US). Upon information and belief and according to the records of the US Postal Service, the package was delivered to Philips Nizer LLP on February 20, 2008.

7. Furthermore, on February 19, 2008, pursuant to the agreement I served an additional copy of the summons and complaint upon Corcyra d.o.o., c/o KSD Pacific LLC, 1061 ½ N. Spaulding Avenue, West Hollywood, California 90046 by US registered mail (receipt no. RA 696 877 677 US). Upon information and belief and according to the records of the US Postal Service, the package was delivered to Corcyra on February 26, 2008.

8. Also, on February 19, 2008 I caused an additional copy of the summons and complaint to be served by overnight delivery upon Corcyra d.o.o. c/o Moshe Har Adir, to Verudela 17, Pula, Croatia 52100, pursuant to the agreement. Upon information and belief and according to the records of Federal Express, the package (tracking no. 798377910058) was never claimed.

9. In addition, on February 19, 2008 I caused an additional copy of the summons and complaint to be served by overnight delivery upon Corcyra d.o.o. c/o Moshe Har Adir, to Valdabeckiput 118, Pula, Croatia 52100, pursuant to the agreement. Upon information and belief and according to the records of Federal Express, the package (tracking no. 798377922316) was never claimed.

Dated: March 31, 2008
New York, New York



KURT R. VELLEK

EXHIBIT 2

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

KPN B.V.

SUMMONS IN A CIVIL ACTION

V.

CORCYRA D.O.O.,
KSD PACIFIC, LLC,
MOSHE HAR ADIR, and
YOSSI ATTIA

CASE NUMBER:

08 CV 1549

TO: (Name and address of Defendant)

CORCYRA D.O.O.
Verudela 17, Pula Croatia 52100
Attn: Moshe Har Adir

JUDGE KOEHL

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Allen & Overy LLP
1221 Avenue of the Americas
New York, NY 10020
Attn: Jacob S. Pultman

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL MAHON

CLERK

Mano Quintero

(By) DEPUTY CLERK

FEB 14 2008

DATE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
KPN B.V.,	:
	:
Plaintiff,	:
	:
-against-	:
	:
CORCYRA D.O.O., KSD PACIFIC LLC,	:
MOSHE HAR ADIR, and YOSSI ATTIA,	:
	:
	:
Defendants,	:
-----X	

08 CV 1549 (JGK)

ECF CASE

DECLARATION OF SERVICE

KURT R. VELLEK hereby declares under penalty of perjury that:

1. I am over 18 years of age, not a party to this action, and reside in Mahopac, New York. I am employed by the law firm of Allen & Overy LLP and I am a licensed New York City process server. My license number is 826793.

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Dated: March 31, 2008
New York, New York


KURT R. VELLEK

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Index No. 08 CV 1549

KPN B.V.

, Plaintiff(s)

- against -

CORCYRA D.O.O., NSD PACIFIC, LLC, MOSHE HAN ADIR, AND YOSSEI ATTIA

, Defendant(s)

State of California)

SS.:

County of Los Angeles)

AFFIDAVIT OF SERVICE

Ignacio Gutierrez being duly sworn, deposes and says that he is over the age of 18 years; is not a party to this action and resides within the State of California. That on 03/06/2008 at 2:38 PM at:

NSD PACIFIC LLC
164 N. STANLEY DRIVE
BEVERLY HILLS CA 90069

Deponent served the:

SUMMONS IN A CIVIL ACTION AND COMPLAINT

on CORCYRA D.O.O.

a domestic and/or foreign corporation by delivering thereto a true copy to Jane Doe (refused name) personally, deponent knew said corporation so served to be the corporation, described in same as said recipient and knew said individual to be the Person In Charge Of Premis and who stated that they were authorized to accept service thereof.

Deponent describes the individual served as follows:

AGE: 42 HEIGHT: 5'6" WEIGHT: 135 HAIR: BLONDE RACE: WHITE SEX: FEMALE

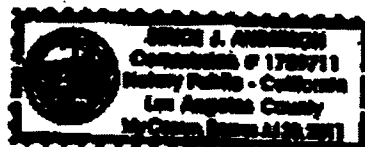

Ignacio Gutierrez Lic. #5060

SWORN TO BEFORE ME

April 11th 2008



OUR DOCS 20659
Allen & Overy
1221 Avenue of The Americas
New York NY 10020
646-344-6694



UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Index No. 08 CV 1549

KPN B.V.

, Plaintiff(s)

- against -

CORCYRA D.O.O., KSD PACIFIC, LLC, MOSHE HAZ ADIR, AND YOSHI AITIA

, Defendant(s)

State of California }

SS.:

County of Los Angeles }

NOT FOUND OR NOW SERVICE RETURN

I, the undersigned am and was on the dates herein mentioned, over the age of eighteen years and not a party to the action, attempted to serve the following:

SUMMONS IN A CIVIL ACTION AND COMPLAINT

And that after due search, careful inquiry and diligent attempts at the Business:

CORCYRA D.O.O.,
1051 1/2 N. SPAULDING AVENUE
LOS ANGELES, CA 90046

I have been unable to make delivery of said process on the within named: CORCYRA D.O.O.
Process is being returned without service for the following reasons:

02/22/2008 at 3:22 PM - Business not open (hour wise)
02/25/2008 at 11:26 AM - Business not open (hour wise)
02/26/2008 at 12:07 PM - Business closed.
02/27/2008 at 11:22 AM - Business closed.
02/28/2008 at 4:32 PM - Talked to man at location who states that the company is not open.
02/29/2008 at 1:07 PM - Business closed.
03/03/2008 at 11:22 AM - Business closed.
03/04/2008 at 10:08 AM - Business closed.
03/05/2008 at 12:13 PM - Business closed.

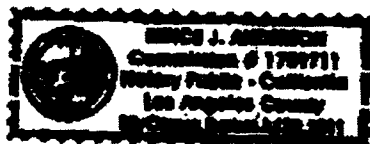

Ignacio Gutierrez

License #5050

SWORN TO BEFORE ME

April 11th 2008





OUR DOC# 20655
Allan & Ovary
1221 Avenue of The Americas
New York NY 10020
646-344-6694